



Signed and Filed: May 28, 2025

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re) Bankruptcy Case
) No. 23-30564-DM
THE ROMAN CATHOLIC ARCHBISHOP)
OF SAN FRANCISCO,) Chapter 11
)
)
Debtor.)
)
)

ORDER ON PENDING DISCOVERY DISPUTE

The court has reviewed the letter submissions of The Official Committee of Unsecured Creditors ("OCC") (Dkt. 1201) filed May 21, 2025, and the response by the Debtor (Dkt. 1203) filed May 23, 2025.¹ For the reasons that are summarized below, the Debtor's objections are overruled and the OCC's request is granted.

Debtor raises five distinct arguments, each of which are rejected.

I. The discovery pursuant to FRBP 2004 is no longer appropriate because the OCC has filed Adversary Proceeding No.

¹ Joined without additional argument by Sacred Heart Cathedral Preparatory (Dkt. 1207).

1 25-3021. That adversary proceeding names the Debtor as the lead
2 defendant, but denial of the OCC's request on this procedural
3 premise would be to elevate form over substance and to invite
4 unnecessary duplication of effort. The adversary proceeding was
5 filed fewer than three weeks ago; the informal discovery that is
6 a subject of this current debate has been pending in various
7 forms for several months. The adversary proceeding seeks a
8 declaration that is effectively a substantive consolidation of
9 Debtor with other defendants; the ongoing discovery seeks
10 information that for the most part is directed to the OCC's
11 efforts to identify bases for avoidance actions before a two
12 year limitation expires in less than three months.² The fact
13 that some of the requested information has been created or is
14 based upon events that are post-bankruptcy does not necessarily
15 mean that it is not appropriate to be discovered at the present
16 time by the OCC.

17 Were it truly necessary to move the request for information
18 from the Rule 2004 setting to the pending adversary proceeding,
19 that could be accomplished by a one-sentence stipulation by the
20 parties, once again illustrating the lack of substance to the
21 Debtor's first argument.

22 **II.** The present pending requests were not part of formal
23 discovery. Once again, this appears to elevate form over
24 substance. The OCC and the Debtor, as with numerous other
25 litigants before this court, have utilized informal discovery
26

27 ² It is unseemly that Debtor, as a fiduciary for this estate,
28 would attempt to impede an inquiry intended to locate potential
estate assets.

1 proceedings in order to avoid unnecessary formality or delay by
2 the more traditional discovery process. There would be no
3 difference in outcome if the court were to order the OCC to
4 propound under Rule 2004 the five pending and already known
5 discovery requests.

6 As a second part of this argument, Debtor alludes to
7 informal correspondence that involve redlines and annotations on
8 emails and other documents, none of which have been presented to
9 the court, and none of which are of interest to the court. What
10 has not been produced is what the OCC is looking for and the
11 court is directing that the Debtor produce.

12 **III.** Whether in passing or for some other reason, the
13 Debtor has argued that the OCC has violated mediation
14 confidentiality. Apparently this is based, in part, on the fact
15 that its counsel copied the May 19, 2025 letter to the court to
16 the mediators.

17 The court ignores this argument but suggests to the Debtor
18 that if there has been a violation of mediation confidentiality,
19 it may take this up with either the mediators or by a separate
20 motion brought before the court. It does not excuse it from
21 complying with an appropriate discovery request.

22 **IV.** Debtor complains that the OCC wants things both ways,
23 claiming pre-petition urgency while demanding post-petition
24 documents. The short answer is the urgency appears to be the
25 fact that this case is only three months away from its two year
26 anniversary, a deadline fixed by Congress for avoidance actions.
27 To the extent that the OCC is seeking post-petition documents,
28 the court already commented on that point above and does not see

1 it as an inappropriate way for the Debtor to avoid discovery
2 now.

3 **V.** The Debtor has listed extensive documents it has
4 produced, or its professionals have provided. The list is
5 impressive but of no consequence. What matters is what has NOT
6 been produced.

7 This final point appears to be related to old documents but
8 the court's review of the unredacted portion of that final
9 request does not indicate that information prior to June 30,
10 2022 is being requested. If indeed the Debtor is meaningfully
11 inconvenienced by going back too many years, its counsel should
12 meet and confer with the OCC's counsel to attempt to come up
13 with a more narrow timeframe for that last request.

14 In summary, the court GRANTS the OCC request and DIRECTS
15 that Debtor to respond within ten (10) days of this Order.

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17 **END OF ORDER**
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COURT SERVICE LIST

ECF Recipients